

IN THE HIGH COURT OF THE UNITED REPUBLIC OF TANZANIA
(LAND DIVISION)
AT DAR ES SALAAM

LAND REVISION NO. 17 OF 2023

(Originating in Execution No. 33 of 2022 by the District Land and Housing
Tribunal for Kisarawe)

KILUVYA BROCKERS AND SALES AGENTS CO.
LTD.....APPLICANT

VERSUS

LUCAS NYANGEMA.....RESPONDENT

R U L I N G

Date of Last Order: 28.07.2023

Date of Ruling: 19.07.2023

T. N. MWENEGOHA, J.

The applicant sought to revise an Execution Order, imposed by the District Land and Housing Tribunal for Kisarawe, vide Application No. 33 of 2022. Her Application, was brought under **Section 43(1)(b) of the Land Disputes Courts Act, Cap 216, R. E. 2019** and supported by the Affidavit of Ramadhan Kondo Kumbwaya, Director and personal representative of the applicant.

Hearing of the Application was by way of written submissions. Advocate Mbwana Ally Chipaso, appeared for the applicant, while the respondent enjoyed the legal services of Advocate Titho Ebehard Lwila.

Submitting in favour of the Application, Mr. Chipaso was of the view that, the District Land and Housing Tribunal for Kisarawe, wrongly proceeded with the matter which was coming for mention on the 22nd day of March,

2023. That, at that time, the respondent/ now applicant had not yet filed counter affidavit, hence the applicant was not afforded an opportunity to be heard in the District Land and Housing Tribunal of Kisarawe. Therefore, the impugned Decision should be revised as stated in **Mihayo Maziku Misana versus Abdallah Mashimba Nzigula, Land Revision No. 3 of 2021, High Court of Tanzania at Shinyanga (unreported)**.

In reply, Mr. Lwila maintained that, the submissions by the applicant's counsel are baseless. The records clearly show that, the applicant himself and his advocate were present on the date when the matter was being heard, on the 22nd March of 2023. They were supposed to show cause as to why execution orders should not be granted. After all, the said date for showing cause was requested by the applicant's advocate before the District Land and Housing Tribunal for Kisarawe.

I have considered the submissions of parties through their respective counsels. The issue for determination is whether the Application has merits or not.

The powers of the Court to revise decisions of lower tribunal, particular the District Land and Housing Tribunals are found under **Section 43(1) (b) of the Land Disputes Act, Cap 216 R. E. 2019**. I will reproduce the said provisions of as follows:

43.-(1) "In addition to any other powers in that behalf conferred upon the High Court, the High Court:

(b) may in any proceedings determined in the District Land and Housing Tribunal in the exercise of its original, appellate or revisional jurisdiction, on application being made in that

behalf by any party or of its own motion, if it appears that there has been an error material to the merits of the case involving injustice, revise the proceedings and make such decision or order therein as it may think fit”.

The rationale behind revisional powers of the Court is to cure errors that are apparent on the Judgment or proceedings of the case. It does so through inspection of the records of the case complained to contain such errors. The purpose is to prevent injustices that may occur on parties, as far as their case is concerned.

In the present case, I went through the records of Application No. 33 of 2022, to satisfy myself if the applicant's right to be heard was infringed. The said records show that, prior to the on the 22nd March of 2023 all parties were present in Court and were aware of all the proceedings. Therefore, as submitted by Mr. Lwila, counsel for the respondent, these claims are unfounded. The records are clear, on the dates complained of, on the 22nd March of 2023, the applicant was present. The records show that, prior to that date, there were duties imposed and agreed to be performed by the applicant/respondent in respect of the case, Application No. 33 of 2022. These orders were issued by the District Land and Housing Tribunal of Kisarawe on the 07th February 2022. Neither the applicant nor the respondent, objected the said orders. As he neglected to honor the Tribunal's previous orders, the District Land and Housing Tribunal for Kisarawe, decided to proceed with the Execution. The order was given in presence of the parties. Therefore, it is not true that, the applicant was denied the right to be heard.

After all, the applicant was enjoying a legal representation by an advocate in the Application No. 33 of 2022. If he was against the Execution, his advocate knows what to do to stop it. He could have done so instead, he set things in motion for his silence.

For these reasons, I find nothing to revise. The records are clean, there is nothing in the records warranting a revision of the said Decision. This Application is devoid of merits and it is dismissed accordingly with costs.

It is so ordered.




T. N. MWENEGOHA

JUDGE

28/07/2023